

LEXSTAT VA. CODE ANN. 22.1-279.3:1

CODE OF VIRGINIA
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*** CURRENT THROUGH THE 2006 REGULAR SESSION, Acts 2006, cc. 1 to 947, and 2006 SP. SESS. I, cc. 1 to 5

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*** ANNOTATIONS CURRENT THROUGH June 1, 2006 ***

TITLE 22.1. EDUCATION
CHAPTER 14. PUPILS
ARTICLE 3. DISCIPLINE

GO TO CODE OF VIRGINIA ARCHIVE DIRECTORY

Va. Code Ann. § 22.1-279.3:1 (2006)

§ 22.1-279.3:1. Reports of certain acts to school authorities

A. Reports shall be made to the division superintendent and to the principal or his designee on all incidents involving (i) the assault or assault and battery, without bodily injury, of any person on a school bus, on school property, or at a school-sponsored activity; (ii) the assault and battery that results in bodily injury, sexual assault, death, shooting, stabbing, cutting, or wounding of any person, or stalking of any person as described in § 18.2-60.3, on a school bus, on school property, or at a school-sponsored activity; (iii) any conduct involving alcohol, marijuana, a controlled substance, imitation controlled substance, or an anabolic steroid on a school bus, on school property, or at a school-sponsored activity, including the theft or attempted theft of student prescription medications; (iv) any threats against school personnel while on a school bus, on school property or at a school-sponsored activity; (v) the illegal carrying of a firearm, as defined in § 22.1-277.07, onto school property; (vi) any illegal conduct involving firebombs, explosive materials or devices, or hoax explosive devices, as defined in § 18.2-85, or explosive or incendiary devices, as defined in § 18.2-433.1, or chemical bombs, as described in § 18.2-87.1, on a school bus, on school property, or at a school-sponsored activity; (vii) any threats or false threats to bomb, as described in § 18.2-83, made against school personnel or involving school property or school buses; or (viii) the arrest of any student for an incident occurring on a school bus, on school property, or at a school-sponsored activity, including the charge therefor.

B. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) of Chapter 11 of Title 16.1, local law-enforcement authorities shall report, and the principal or his designee and the division superintendent shall receive such reports, on offenses, wherever committed, by students enrolled at the school if the offense would be a felony if committed by an adult or would be a violation of the Drug Control Act (§ 54.1-3400 et seq.) and occurred on a school bus, on school property, or at a school-sponsored activity, or would be an adult misdemeanor involving any incidents described in clauses (i) through (viii) of subsection A, and whether the student is released to the custody of his parent or, if 18 years of age or more, is released on bond. Further, any school superintendent who receives notification that a juvenile has committed an act that would be a crime if committed by an adult pursuant to subsection G of § 16.1-260 shall report such information to the principal of the school in which the juvenile is enrolled.

C. The principal or his designee shall submit a report of all incidents required to be reported pursuant to this section to the superintendent of the school division. The division superintendent shall annually report all such incidents to the Department of Education for the purpose of recording the frequency of such incidents on forms that shall be provided by the Department and shall make such information available to the public.

In submitting reports of such incidents, principals and division superintendents shall accurately indicate any offenses, arrests, or charges as recorded by law-enforcement authorities and required to be reported by such authorities pursuant to subsection B.

A division superintendent who knowingly fails to comply or secure compliance with the reporting requirements of this subsection shall be subject to the sanctions authorized in § 22.1-65. A principal who knowingly fails to comply or secure compliance with the reporting requirements of this section shall be subject to sanctions prescribed by the local school board, which may include, but need not be limited to, demotion or dismissal.

The principal or his designee shall also notify the parent of any student involved in an incident required pursuant to this section to be reported, regardless of whether disciplinary action is taken against such student or the nature of the disciplinary action. Such notice shall relate to only the relevant student's involvement and shall not include information concerning other students.

Whenever any student commits any reportable incident as set forth in this section, such student shall be required to participate in such prevention and intervention activities as deemed appropriate by the superintendent or his designee. Prevention and intervention activities shall be identified in the local school division's drug and violence prevention plans developed pursuant to the federal Improving America's Schools Act of 1994 (Title IV — Safe and Drug-Free Schools and Communities Act).

D. Except as may otherwise be required by federal law, regulation, or jurisprudence, the principal shall immediately report to the local law-enforcement agency any act enumerated in clauses (ii) through (vii) of subsection A that may constitute a criminal offense and may report to the local law-enforcement agency any incident described in clause (i) of subsection A.

Further, except as may be prohibited by federal law, regulation, or jurisprudence, the principal shall also immediately report any act enumerated in clauses (ii) through (v) of subsection A that may constitute a criminal offense to the parents of any minor student who is the specific object of such act. Further, the principal shall report that the incident has been reported to local law enforcement as required by law and that the parents may contact local law enforcement for further information, if they so desire.

E. A statement providing a procedure and the purpose for the requirements of this section shall be included in school board policies required by § 22.1-253.13:7.

The Board of Education shall promulgate regulations to implement this section, including, but not limited to, establishing reporting dates and report formats.

F. For the purposes of this section, "*parent*" or "*parents*" means any parent, guardian or other person having control or charge of a child.

G. This section shall not be construed to diminish the authority of the Board of Education or to diminish the Governor's authority to coordinate and provide policy direction on official communications between the Commonwealth and the United States government.

HISTORY: 1981, c. 189; 1990, cc. 517, 797; 1991, c. 295; 1994, cc. 265, 285; 1995, cc. 759, 773; 1996, cc. 916, 964; 1999, c. 970; 2000, cc. 79, 611, § 22.1-280.1; 2001, cc. 688, 820; 2002, c. 388; 2003, cc. 899, 954; 2004, cc. 517, 542, 939, 955; 2005, cc. 461, 484, 528; 2006, c. 146.

NOTES:

CROSS REFERENCES.—As to civil immunity granted school personnel who report or investigate conduct described in this section, see § 8.01-47.

EDITOR'S NOTE.—Acts 2004, cc. 939 and 955, cl. 2, provide: "That no educational standard set forth in this act, for which state funding is required, shall take effect unless the state's share of funding that standard is included in the 2004 Appropriation Act, passed during the 2004 Session of the General Assembly and signed by the Governor." See Editor's note under § 22.1-253.13:2 and Acts 2004, Sp. Sess. I, c. 4, Items 146 B 6 b and 146 C 2 j.

THE 2002 AMENDMENTS.—The 2002 amendment by c. 388 inserted "including the theft or attempted theft of student prescription medications" at the end of clause (ii) of subsection A.

THE 2003 AMENDMENTS.—The 2003 amendment by c. 899, in subsection D, added "Except as may otherwise be required by federal law, regulation, or jurisprudence", and in subsection G, substituted "or the Governor concerning

decisions on whether, or the extent to which, Virginia shall participate in the federal Improving America's Schools Act of 1994."

The 2003 amendment by c. 954, in subsection A, substituted "assault and battery, without bodily injury" for "assault and battery, sexual assault, death, shooting, stabbing, cutting, or wounding" in clause (i), inserted present clause (ii), and redesignated former clauses (ii) through (vi) as clauses (iii) through (vii); and in subsection D, inserted "clauses (ii) through (vii) of" and "and may report to the local law-enforcement agency any incident described in clause (i) of subsection A."

THE 2004 AMENDMENTS.—The 2004 amendment by c. 517 inserted clause (viii) in subsection A; in subsection B, substituted "shall report" for "may report," "designee and the division superintendent shall receive" for "designee may receive" and "clauses (i) through (viii)" for "clauses (i) through (v)"; deleted "or authorized" following "all incidents required" in the first sentence of subsection C, and substituted "required pursuant to this section" for "required by subsection A or authorized by subsection B" in the first paragraph after subsection C.

The 2004 amendment by c. 542 inserted "as defined in § 22.1-277.07" in clause (v) of subsection A.

The 2004 amendments by cc. 939 and 955 are identical, and substituted "school board policies required by § 22.1-253.13:7" for "the policy manual of all school divisions" at the end in subsection E.

THE 2005 AMENDMENTS.—The 2005 amendments by cc. 461 and 484 are identical, and in clause (ii) of subsection A, substituted "battery that" for "battery which" and inserted "or stalking of any person as described in § 18.2-60.3"; and added the last paragraph in subsection D.

The 2005 amendment by c. 528 added the second paragraph in subsection C.

THE 2006 AMENDMENTS.—The 2006 amendment by c. 146, in subsection B, added the language beginning "and whether the student is released" at the end of the first sentence and added the last sentence.

LAW REVIEW.—For 2000 survey of Virginia law regarding children, see *34 U. Rich. L. Rev.* 939 (2000).

PARENTAL NOTIFICATION IS AN ISSUE BEST ADDRESSED BY STATE LAW, NOT A CONSTITUTIONAL RULING.—Court dismissed the mother's claim that school's failure to notify her while questioning her daughter for allegedly having a gun at school, violated her rights to due process under the Fourteenth Amendment because state law and school board rules provide rights and remedies that bear on this question. *Wofford v. Evans*, 390 F.3d 318, 2004 U.S. App. LEXIS 24181 (4th Cir. 2004).